

RECEIVED
AND FILED

1 ANTHONY THOMAS
2 WENDI THOMAS
3 7725 Peavine Peak Court
Reno, Nevada 89523
(408) 640-2795
4 Email: ATEmerald2@gmail.com

2016 MAR 4 PM 3 58

U.S. BANKRUPTCY COURT
MARY A. CONKLIN, CLERK

5 Debtors and Defendants In Pro Per
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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

10 In re:) Case No.: BK-N-14-50333-BTB
11) Case No.: BK-N-14-50331-BTB
12 ANTHONY THOMAS and WENDI)
THOMAS,) CHAPTER 7
13 AT EMERALD, LLC,) [Jointly Administered]
14) Adv. Pro. No. 14-5022
15 Debtors.)
16 KENMARK VENTURES, LLC,)
17 Plaintiff,) NOTICE OF APPEAL FROM
18 vs.) NONDISCHARGEABLE JUDGMENT
19 ANTHONY THOMAS and WENDI) AFTER TRIAL
THOMAS,)
20)
21 Defendants.)
22)

23 NOTICE IS HEREBY GIVEN that ANTHONY THOMAS and WENDI THOMAS,
24 Debtors and Defendants in the above-entitled proceedings, appeal from the Nondischargeable
25 Judgment after Trial entered by the United States Bankruptcy Court for the District of Nevada on
26 February 19, 2016 (hereinafter "Judgment"). A true and correct copy of the Judgment is
27 attached hereto as **Exhibit "A"**.
28

1 The interested parties to the Judgment appealed from and the names, addresses, and
2 telephone numbers of their attorneys are as follows:

3 1. Debtors and Defendants **Anthony Thomas and Wendi Thomas**.

4 The **Thomases** are representing themselves in connection with this appeal. They
5 were represented through trial by the following attorney:

6 Jeffrey A. Cogan, Esq. [Trial Counsel for Debtors and Defendants]

7 Jeffrey A. Cogan, Esq., Ltd.

8 6900 Westcliff Drive, Suite 602

9 Las Vegas, NV 89145

10 Telephone: (702) 474-4220 – Email: jeffrey@jeffreycogan.com

11 2. Plaintiff **KENMARK VENTURES, LLC**

12 Wayne A. Silver, Esq. [Counsel for Plaintiff Kenmark Ventures, LLC]

13 333 West El Camino Real, Suite 310

14 Sunnyvale, CA 94807

15 Telephone: (408) 720 7007 – Email: W_Silver@Sbcglobal.net

16 Amy N. Tirre, Esq. [Counsel for Plaintiff Kenmark Ventures, LLC]

17 Law Offices of Amy N. Tirre

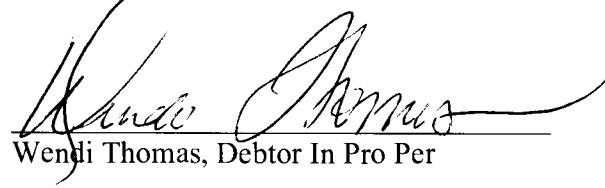
18 3715 Lakeside Drive, Suite A

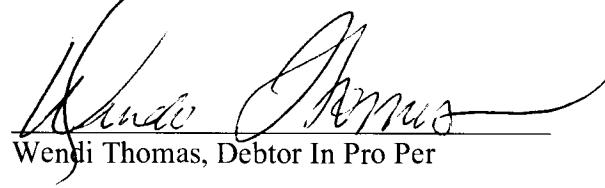
19 Reno, NV 89509

20 Telephone: (775) 828-0909 – Email: amy@amytirrelaw.com

21 Dated: March 4, 2016

22 Respectfully submitted,



23 
24 Wendi Thomas, Debtor In Pro Per

1 **PROOF OF SERVICE BY MAIL AND ELECTRONIC TRANSMISSION**

2 I am employed in Santa Clara County, California. I am over the age of eighteen years
 3 and not a party to the within-entitled action. My business address is 1110 North First Street, San
 4 Jose, California, 95112. I am readily familiar with processing correspondence and documents
 5 for mailing with the United States Postal Service. On **March 4, 2016** I placed a true and correct
 6 copy of the **NOTICE OF APPEAL FROM NONDISCHARGEABLE JUDGMENT AFTER**
 7 **TRIAL** in a sealed envelope, postage fully paid, addressed as follows, and deposited the same
 8 with the United States Postal Service:

11 Wayne A. Silver, Esq. [Counsel for Plaintiff Kenmark Ventures, LLC]
 12 333 West El Camino Real, Suite 310
 13 Sunnyvale, CA 94807
 14 Email: W_Silver@Sbcglobal.net

14 Amy N. Tirre, Esq. [Counsel for Plaintiff Kenmark Ventures, LLC]
 15 Law Offices of Amy N. Tirre
 16 3715 Lakeside Drive, Suite A
 17 Reno, NV 89509
 18 Email: amy@amytirrelaw.com

17 Jeffrey A. Cogan, Esq. [Trial Counsel for Debtors and Defendants]
 18 Jeffrey A. Cogan, Esq., Ltd.
 19 6900 Westcliff Drive, Suite 602
 20 Las Vegas, NV 89145
 21 Email: jeffrey@jeffreycogan.com

21 United States Trustee, Region 17
 22 300 Booth Street, Room 3009
 23 Reno, NV 89509
 24 Email: USTPRegion17.RE.ECF@usdoj.gov

24 In addition to mailing, on **March 4, 2016** I served a true and correct copy of the
 25 **NOTICE OF APPEAL** on each of the above-named recipients by electronic transmission
 26 (email) at the email address listed for each recipient. No error was reported regarding the
 27 electronic transmission.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct and that this declaration is executed this 4th day of March 2016.

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4
5 Tracey McCarroll

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Exhibit “A”

Bruce T Beesley

Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
February 19, 2016

WAYNE A. SILVER, Esq. (CA 108135)
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(Admitted Pro Hac Vice)

LAW OFFICES OF AMY N. TIRRE
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Attorneys for Plaintiff,
KENMARK VENTURES, LLC

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
ANTHONY THOMAS and WENDI
THOMAS,
AT EMERALD, LLC,
Debtors.

Case No. BK-N-14-50333-BTB
Case No. BK-N-14-50331-BTB

Chapter 7

[Jointly Administered]

Adv. Pro. No. 14-5022

KENMARK VENTURES, LLC
Plaintiff,
v.
ANTHONY THOMAS and WE
THOMAS,
Defendants.

**NONDISCHARGEABLE JUDGMENT
AFTER TRIAL**

ANTHONY THOMAS and WENDI
THOMAS,
Defendants.

1 This Adversary Proceeding came on regularly for bench trial in the above-entitled Court, the
2 Hon. Bruce T. Beesley, U.S. Bankruptcy Judge, presiding. Plaintiff KENMARK VENTURES, LLC
3 and Defendants ANTHONY THOMAS and WENDI THOMAS appeared and were represented by
4 their respective attorneys of record. The Court having heard and considered the evidence, the matter
5 having been argued and submitted for decision, the Court having issued its proposed findings of fact
6 and conclusions of law on the record, good cause appearing, IT IS HEREBY ORDERED,
7 ADJUDGED AND DECREED that:

8 1. The Judgment in Santa Clara Superior Court Case No. 108CV130677 (a copy of
9 which is attached hereto without Exhibits and of which the Court has taken judicial notice) in favor
10 KENMARK VENTURES, LLC against Defendant ANTHONY THOMAS in the amount of Four
11 Million Five Hundred Thousand Dollars (\$4,500,000.00) plus interest at the rate of ten percent
12 (10%) per annum from October 8, 2015, IS HEREBY DECLARED NONDISCHARGEABLE under
13 11 U.S.C. §523(a)(2).

14 2. KENMARK VENTURES, LLC is hereby awarded costs and attorneys' fees in an
15 amount to be established by post-trial motion.

16 Submitted by:

17 /s/ Wayne A. Silver
18 Attorney for Plaintiff,
19 KENMARK VENTURES, LLC

20 **APPROVED/DISAPPROVED**

21 /s/ Jeffrey Cogan
22 Jeffrey Cogan, Esq., attorney for
23 Defendants ANTHONY THOMAS
24 And WENDI THOMAS

25 **RULE 9021 CERTIFICATION**

26 In accordance with Local Rule 9021, counsel submitting this document certifies as follows
(check one):

27 The court has waived the requirement set forth in LR 9021(b)(1).
28 No party appeared at the hearing or filed an objection to the motion.

1 X I have delivered a copy of this proposed order to all attorneys who appeared at the
2 hearing, and each has approved or disapproved the order, or failed to respond, as indicated below
3 [list each party and whether the party has approved, disapproved, or failed to respond to the
4 document]:

- Jeffrey Cogan, attorney for Defendant ANTHONY THOMAS and WENDI THOMAS – Approved.

7 I certify that this is a case under chapter 7 or 13, that I have served a copy of this order
8 with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the
9 order.

* * *

1 DAVID I. KORNBLUH, ESQ., SBN 162310
 2 J. CARLOS ORELLANA, ESQ., SBN 233403
 2 MILLER, MORTON, CAILLAT & NEVIS, LLP
 25 Metro Drive, 7th Floor
 3 San Jose, California 95110
 Telephone: (408) 292-1765
 4 Facsimile: (408) 436-8272

ENCORSED
FILED

2015 CCI - 6 A # 15

C.P.
David Kornbluh, Esq.
Miller, Morton, Caillat & Nevis, LLP
25 Metro Drive, Suite 700
San Jose, California 95110

2015 CCI - 6 A # 15

5 Attorneys for Plaintiff KENMARK VENTURES, LLC,
 a California Limited Liability Company

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SANTA CLARA

10

11 KENMARK VENTURES, LLC, a California) Case No.: 108CV130677
 12 limited liability company,)
 13 Plaintiff,) STIPULATION FOR JUDGMENT AND
 14 vs.) [PROPOSED] JUDGMENT
 15 TONY THOMAS, an individual;)
 16 ELECTRONIC PLASTICS, LLC, a Delaware)
 17 limited liability company; MICHAEL)
 18 GARDINER, an individual; and DOES 1)
 through 100, inclusive,)
 19 Defendants.)
 20 AND RELATED CROSS-COMPLAINT)
 21

BY PDF

22
 23 RECITALS

24 WHEREAS, on or about December 19, 2008 Plaintiff Kenmark Ventures, LLC
 25 ("Kenmark") filed suit against Defendants Anthony Thomas, Electronic Plastics, LLC, and
 Michael Gardner;

26 WHEREAS, on or about March 20, 2009, Defendant filed its First Amended Complaint
 27 against Defendants Anthony Thomas, Electronic Plastics, LLC, and Michael Gardner alleging,

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1 *inter alia*, causes of action for fraud on the alleged basis that Defendant Anthony Thomas as the
 2 sole member of AT Emerald, LLC, and Defendant Michael Gardiner defrauded Kenmark into
 3 loaning \$6,110,000.00 to Anthony Thomas and Electronic Plastics, LLC based on written
 4 misrepresentations and concealments;

5 WHEREAS, on or about October 5, 2011, the parties reached a settlement of this action
 6 which they stated on the record before the Court (the "Settlement");

7 WHEREAS, a true and correct copy of the transcript of the hearing at which the
 8 Settlement was entered into the record is attached hereto as Exhibit "A";

9 WHEREAS, the Settlement, among other things, required Defendants Thomas and
 10 Gardner, jointly and severally to pay Kenmark a total of \$5,000,000 in installments of \$500,000
 11 on January 1, 2013, \$500,000 on January 1, 2014, \$1,000,000 on January 1, 2015, \$1,000,000 on
 12 January 1, 2016, and \$1,000,000 on January 1, 2017, with a five-day grace period for each
 13 payment;

14 WHEREAS, Defendants Thomas and Gardner made their first payment under the
 15 Settlement but have not made any further payments within the time specified in the Settlement;

16 WHEREAS, the Settlement provides that upon the failure of Defendants Thomas and
 17 Gardner to pay any settlement payment, Kenmark may obtain entry of judgment against
 18 Defendants Thomas and Gardner, jointly and severally, on Kenmark's Fourth Cause of Action
 19 for Fraud and Fifth Cause of Action for Fraud;

20 WHEREAS, Defendant Thomas has promised to pay \$575,000 toward the stipulated
 21 settlement amount on or before January 30, 2014; and

22 WHEREAS, Defendant Thomas's legal name is Anthony as reflected in the transcript of
 23 the October 5, 2011 hearing before this Court that is attached hereto as Exhibit "A".

24 IT IS HEREBY STIPULATED by the parties hereto as follows:

25 1. If payment of \$550,000 is not received by Kenmark on or before January 30,
 26 2014, judgment shall hereby be entered in favor of Plaintiff Kenmark Ventures, LLC against
 27 Defendants Anthony Thomas jointly and severally with Defendant Michael Gardner, on
 28 Kenmark's Fourth Cause of Action for Fraud and Fifth Cause of Action for Fraud in the

1 principal sum of \$4,500,000 (four million, five hundred thousand dollars) together with interest
2 on the judgment thereafter at the rate of 10% per annum, as provided by law.

3 2. The Clerk of the Court is authorized to enter judgment against Defendant
4 Thomas in his correct legal name of Anthony Thomas rather than Tony Thomas.

5 3. Defendant Thomas authorizes Kenmark to file this Stipulation and to obtain entry
6 of judgment on an *ex parte* basis.

7 4. This Stipulation is entered into freely and voluntarily. The parties to this
8 stipulation acknowledge that they have been represented by counsel of their choice, or had the
9 option to be represented by counsel of their choice, in the negotiations that preceded the
10 execution of this Stipulation and in connection with the preparation and execution of this
11 Stipulation. Each party hereto has executed this Stipulation with full knowledge of its
12 significance and with the express intention of affecting its legal consequence. None of the
13 parties hereto have relied upon any representation of any other party in signing this Stipulation.

14 5. This Stipulation may be executed in counterparts and executed facsimiles or PDF
15 files thereof may be used in lieu of the original for all purposes.

16 | Dated: January 27, 2014

KEN MARK VENTURES, LLC, Plaintiff
By: Kenneth Terstri
Its: Managing Member

20 Dated: January 9, 2014

ANTHONY THOMAS, Defendant

397666_1

HILLER, MORTON, CAILLAT & NEVIS, LLP
25 Market Street, 7th Floor
San Jose, CA 95110
Telephone: (408) 292-1766

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STIPULATION FOR JUDGMENT

JUDGMENT BY STIPULATION

The Court, having considered the Stipulation of Plaintiff Kenmark Ventures, LLC and Defendant Anthony Thomas, and good cause appearing therefor,

HEREBY ENTERS JUDGMENT in favor of Plaintiff Kenmark Ventures, LLC against Defendant Anthony Thomas, jointly and severally, on Kenmark Ventures, LLC's Fourth Cause of Action for Fraud and Fifth Cause of Action for Fraud in the principal sum of \$4,500,000 (four million, five hundred thousand dollars). This judgment shall accrue interest at the rate of ten percent (10%) per year from the date of entry of this judgment.

The Clerk of the Court is authorized to enter judgment against Defendant Thomas in his correct legal name of Anthony Thomas rather than Tony Thomas.

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12 Dated: OCT 08 2015

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WILLIAM J. ELFVING

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JUDGE OF THE SUPERIOR COURT

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